

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.51 Order terminating rights of parents or person in loco parentis; extension of time; conditions; child as ward of court; termination of jurisdiction; marriage of petitioner to parent having legal custody; placement without making child ward of court; evidence; order terminating rights of divorced or unmarried parent not having legal custody; conditions; consent to services for child by prospective adoptive parents.

Sec. 51. (1) Not later than 14 days after receipt of the report of investigation, except as provided in subsections (2) and (5), the judge shall examine the report and shall enter an order terminating the rights of the child's parent or parents, if there was a parental consent, or the rights of any person in loco parentis, if there was a consent by other than parents, and approve placement of the child with the petitioner if the judge is satisfied as to both of the following:

(a) The genuineness of consent to the adoption and the legal authority of the person or persons signing the consent.

(b) The best interests of the adoptee will be served by the adoption.

(2) If it is necessary to hold a hearing before entering an order terminating the rights of a parent, parents, or a person in loco parentis, or if other good cause is shown, the time specified in subsection (1) shall be extended for an additional 14-day period.

(3) Upon entry of an order terminating rights of parents or persons in loco parentis, a child is a ward of the court and a consent to adoption executed pursuant to section 43 of this chapter shall not be withdrawn after the order is entered. Entry of the order terminates the jurisdiction of the same court or another court over the child in a divorce or separate maintenance action. If the petitioner for adoption is married to the parent having legal custody of the child, the child shall not be made a ward of the court after termination of the rights of the other parent.

(4) Without making the child a ward of the court, the court may approve placement of a child if the child is placed for adoption in this state by a public or licensed private agency of another state or country and if the law of the sending state or country prohibits the giving of consent to adoption at the time of placement. Before placement of the child in that instance, the sending agency shall tender evidence as the court requires to demonstrate that the agency possesses the necessary authority to consent to the adoption at the time of entry of the final order of adoption. After the sending agency has given evidence of its ability to consent, the agency shall not do anything to jeopardize its ability to grant the required consent before entry of the final order of adoption. After the sending agency gives its consent for the adoption, that consent shall not be withdrawn.

(5) If a parent having legal custody of the child is married to the petitioner for adoption, the judge shall not enter an order terminating the rights of that parent.

(6) If the parents of a child are divorced, or if the parents are unmarried but the father has acknowledged paternity or is a putative father who meets the conditions in section 39(2) of this chapter, and if the parent having legal custody of the child subsequently marries and that parent's spouse petitions to adopt the child, the court upon notice and hearing may issue an order terminating the rights of the other parent if both of the following occur:

(a) The other parent, having the ability to support, or assist in supporting, the child, has failed or neglected to provide regular and substantial support for the child or if a support order has been entered, has failed to substantially comply with the order, for a period of 2 years or more before the filing of the petition.

(b) The other parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for a period of 2 years or more before the filing of the petition.

(7) Unless otherwise ordered by the court, the prospective adoptive parents with whom a child is placed pursuant to a court order approving placement under this section may consent to all medical, surgical, psychological, educational, and related services for the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code